

DETAILED ACTION

Current Status

1. This action is responsive to Applicants' amendment of 24 December 2009.
2. Receipt and entry of Applicants' amendment is acknowledged.
3. Claims 1-3, 5, 7, 9, 11-14, 16, 18, 21, 24, 29, 30, 34, 37, 51, 54, 55, 56, 58 and 59 are pending in the application.
4. The rejection of claims 1-3, 5, 7, 9, 11-14, 16, 18, 21, 24, 29, 30, 34, 37, 51, 54, 55, 56, 58 and 59 under 35 U.S.C. 103 as being unpatentable over Lee, {US 6,388,138} is maintained for the reasons set forth in the previous Office Action of 09/12/2009.

Applicants' argument and amendments filed 24 December 2009 have been fully considered but they are not persuasive because Applicants claimed process is obvious in view of the prior art reference cited. Applicants' argument is based on the fact that the prior art relied upon employed excess concentration of an acid (up to about 12% molar excess).

Applicants' argument is not convincing because the variation of a reaction conditions such as **concentration** in a chemical reaction is a well-known chemical technique to optimize the process efficiency of the system and does not constitute a patentable distinction **absent** a showing of criticality. In re Aller, 220 F.2d 454, 105 U. S. P. Q. 233 (C. C. P. A. 1955). Therefore, the instantly claimed invention would therefore have been obvious to one of ordinary skill in the art.

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chukwuma O. Nwaonicha whose telephone number is 571-272-2908. The examiner can normally be reached on Monday thru Friday, 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Sullivan can be reached on 571-272-0779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Chukwuma O. Nwaonicha/
Examiner, Art Unit 1621

/Sikarl A. Witherspoon/
Primary Examiner, Art Unit 1621

(for)

Daniel Sullivan
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